

§ 1942.6 Preparation for loan closing.

(a) *Obtaining closing instructions.* Completed dockets will be reviewed by the State Director. The information required by OGC will be transmitted to OGC with a request for closing instructions. Upon receipt of the closing instructions from OGC, the State Director will forward them along with any appropriate instructions to the District Director. Upon receipt of closing instructions, the District Director will discuss with the applicant and its architect or engineer, attorney, and other appropriate representatives, the requirements contained therein and any actions necessary to proceed with closing.

(b) *Verification of users and other funds.* (1) In connection with a loan for a utility type project to be secured by a pledge of user fees or revenues, the District Director will authenticate the number of users prior to loan closing or the commencement of construction, whichever occurs first. Such individual will review each signed user agreement and check evidence of cash contributions. If during the review any indication is received that all signed users may not connect to the system, there will be such additional investigation made as deemed necessary to determine the number of users who will connect to the system. The District Director will record the determination in a memorandum to the State Director.

(2) In all cases the availability and amounts of other funds to be used in the project will be verified by FmHA or its successor agency under Public Law 103–354.

(c) *Initial compliance review.* An initial compliance review should be completed under subpart E of part 1901 of this chapter.

(d) *Ordering loan checks.* Checks will not be ordered until:

(1) The applicant has complied with approval conditions and closing instructions, except for those actions which are to be completed on the date of loan closing or subsequent thereto; and

(2) The applicant is ready to start construction or funds are needed to pay interim financing obligations.

(e) *Multiple advances of FmHA or its successor agency under Public Law 103–*

354 funds. When FmHA or its successor agency under Public Law 103–354 provides loan funds during the construction period using interim (temporary) instruments described in §1942.19(g) of this subpart, the following action will be taken prior to the issuance of the permanent instruments:

(1) The Finance Office will be notified of the anticipated date for retirement of the interim instruments and issuance of permanent instruments of debt.

(2) The Finance Office will prepare a statement of account including accrued interest through the proposed date of retirement and also show the daily interest accrual. The statement of account and the interim financing instruments will be forwarded to the District Director.

(3) The District Director will collect interest through the actual date of the retirement and obtain the permanent instrument(s) of debt in exchange for the interim financing instruments. The permanent instruments and the cash collection will be forwarded to the Finance Office immediately, except that for promissory notes and single instrument bonds fully registered as to principal and interest, the original will be retained in the District Office and a copy will be forwarded to the Finance Office. In developing the permanent instruments, the sequence of preference set out in §1942.19(e) of this subpart will be followed.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 6787, Mar. 3, 1988; 53 FR 26589, July 14, 1988]

§ 1942.7 Loan closing.

Loans will be closed in accordance with the closing instructions issued by the OGC and §1942.17(o) of this subpart and as soon as possible after receiving the check.

(a) *Authority to execute, file, and record legal instruments.* Area Office employees are authorized to execute and file or record any legal instruments necessary to obtain or preserve security for loans.

(b) *Preparation of mortgages.* Unless otherwise required by State law or unless an exception is approved by the State Director with advice of the OGC, only one mortgage will be taken even

though the indebtedness is to be evidenced by more than one instrument.

(c) *Source of funds for insured loans.* All loans will be made from the Rural Development Insurance Fund (RDIF).

(d) *Unused funds.* Obligated funds planned for project development which remain after all authorized costs have been provided for will be disposed of in accordance with §1942.17(p)(6) of this subpart.

(e) *Loan disbursements.* Whenever a loan disbursement is received, lost, or destroyed, the Rural Development Manager will take appropriate actions outlined in Rural Development Instruction 2018–D.

(f) *Supervised bank accounts.* Supervised bank accounts will be handled under subpart A of part 1902 of this chapter.

[50 FR 7296, Feb. 22, 1985, as amended at 53 FR 6787, Mar. 3, 1988; 59 FR 54788, Nov. 2, 1994; 68 FR 61331, Oct. 28, 2003; 70 FR 19253, Apr. 13, 2005]

§ 1942.8 Actions subsequent to loan closing.

(a) *Mortgages.* Real estate or chattel mortgages or security instruments will be delivered to the recording office for recordation or filing, as appropriate. A copy of such instruments will be delivered to the borrower. The original instrument, if returnable after recording or filing, will be retained in the borrower's case folder.

(b) *Notes and bonds.* When the debt instrument is a promissory note or single instrument bond fully registered as to principal and interest, a conformed copy will be sent to the Finance Office immediately after loan closing and the original instrument will be stored in the District Office. When other types of bonds are used, the original bond(s) will be forwarded to the Finance Office immediately after loan closing.

(c) *Multiple advances—bond(s).* When temporary paper, such as bond anticipation notes or interim receipts, is used to conform with the multiple advance requirement, the original temporary paper will be forwarded to the Finance Office after each advance is made to the borrower. The borrower's case number will be entered in the upper right-hand corner of such paper by the District Office. The permanent

debt instrument(s) should be forwarded to the Finance Office as soon as possible after the last advance is made except that for promissory notes and single instrument bonds fully registered as to principal and interest, the original will be retained in the District Office and a copy will be forwarded to the Finance Office.

(d) *Bond registration record.* Form FmHA or its successor agency under Public Law 103–354 442–28, “Bond Registration Book,” may be used as a guide to assist borrowers in the preparation of a bond registration book in those cases where a registration book is required and a book is not provided in connection with the printing of the bonds.

(e) *Disposition of title evidence.* All title evidence other than the opinion of title, mortgage title insurance policy, and water stock certificates will be returned to the borrower when the loan has been closed.

(f) *Material for State Office.* When the loan has been closed, the District Director will submit to the State Director:

- (1) The complete docket; and
- (2) A statement covering information other than the completion of legal documents showing what was done in carrying out loan closing instructions.

(g) *State Office review of loan closing.* The State Director will review the District Director's statement concerning loan closing, the security instruments, and other documents used in closing to determine whether the transaction was closed properly. All material submitted by the District Director, including the executed contract documents (if required by OGC) with the certification of the borrower's attorney, along with a statement by the State Director that all administrative requirements have been met, will be referred to OGC for post-closing review. OGC will review the submitted material to determine whether all legal requirements have been met. OGC's review of FmHA or its successor agency under Public Law 103–354's standard forms will be only for proper execution thereof, unless the State Director brings specific questions or deviations to the attention of OGC. It is not expected that facility development including construction will be